

**REPORT ON
CLERK OF THE CIRCUIT COURT
of the
COUNTY OF CAROLINE, VIRGINIA
RAY S. CAMPBELL, JR.**

**FOR THE PERIOD
APRIL 1, 2004 THROUGH MARCH 31, 2005**



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Commonwealth of Virginia

Auditor of Public Accounts

P.O. Box 1295

Richmond, Virginia 23218

Walter J. Kucharski, Auditor

June 29, 2005

The Honorable Ray S. Campbell, Jr.
Clerk of the Circuit Court
County of Caroline

Board of Supervisors
County of Caroline

We have audited the cash receipts and disbursements of the Clerk of the Circuit Court of the County of Caroline for the period April 1, 2004 through March 31, 2005.

Our primary objectives were to test the accuracy of financial transactions recorded on the Court's financial management system; evaluate the Court's internal controls; and test its compliance with significant state laws, regulations, and policies. However, our audit was more limited than would be necessary to provide assurance on the internal controls or on overall compliance with applicable laws, regulations, and policies.

Court management has responsibility for establishing and maintaining internal controls and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

Our audit was more limited than would be necessary to provide assurance on internal controls or to provide an opinion on overall compliance with laws and regulations. Because of inherent limitations in internal controls, errors, irregularities, or noncompliance may nevertheless occur and not be detected. Also, projecting the evaluation of internal controls to future periods is subject to the risk that the controls may become inadequate because of changes in conditions or that the effectiveness of the design and operation of controls may deteriorate.

The results of our tests found the Court properly stated, in all material respects, the amounts recorded and reported in the financial management system.

However we noted certain matters involving internal control and its operation that we consider to be reportable conditions. A reportable condition involves a matter coming to our attention relating to a deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal

accountability. The reportable conditions are discussed in the section titled “Internal Control and Compliance Findings and Auditor’s Recommendations.”

We do not believe these conditions are material weaknesses. A material weakness is a significant deficiency in the design or operation of internal controls that, in our judgment, could reasonably lead to the loss of revenues or assets, or otherwise compromise fiscal accountability and go undetected.

The results of our tests of compliance with applicable laws and regulations disclosed instances of noncompliance that are required to be reported. These instances of noncompliance are discussed in the section entitled “Internal Control and Compliance Findings and Auditor Recommendations.”

We discussed these comments with the Clerk on June 29, 2005 and we acknowledge the cooperation extended to us by the court during this engagement.

AUDITOR OF PUBLIC ACCOUNTS

WJK:slb

cc: The Honorable Horace A. Revercombe, III, Chief Judge
Percy C. Ashcraft, County Administrator
Bruce Haynes, Executive Secretary
Compensation Board
Paul Delosh, Director of Technical Assistance
Supreme Court of Virginia
Martin Watts, Court Analyst
Supreme Court of Virginia
Director, Admin and Public Records
Department of Accounts

INTERNAL CONTROL AND COMPLIANCE FINDINGS AND AUDITOR'S RECOMMENDATIONS

The following findings are reportable internal control matters that could lead to the loss of revenues, assets, or otherwise compromise the Clerk's fiscal accountability. The Clerk's response and written corrective action plan to remediate these findings are included as an enclosure to this report.

Properly Assess Costs on Criminal Cases

As noted in previous audit reports, court staff do not always assess costs on criminal cases correctly. Specifically, in 14 of 30 cases tested, court staff failed to assess the jail processing fee when defendants' sentences included jail time as required by Section 15.2-1613.1 of the Code of Virginia and local ordinance. We also found where staff again failed to properly assess the DNA Analysis Fee when required by the Code of Virginia. Also, once again we found where court staff assessed a separate courthouse maintenance fee in fixed-fee cases even though the maintenance fee is already included as part of the fixed fees. Finally, we found in one case where staff failed to properly assess the tried-in-absence fee when a defendant failed to show for court.

Failing to properly assess all court fees when required can result in lost revenue for both the Commonwealth and the locality. Also, when staff assess a separate courthouse maintenance fee in fixed-fee cases, defendants pay more in costs than they should. The Clerk should ensure that staff responsible for assessing court costs and fees have the proper training so that they assess all court fees in accordance with the Code of Virginia and local ordinance. Also, the Clerk should make sure staff use current fee schedules when assessing court costs.

Properly Monitor Automated System Reports

The Clerk does not properly monitor the automated system Unmatched Case Report monthly. We found that court staff failed to record eleven criminal cases in the financial system for up to one year. The Financial Management Systems User's Guide requires courts to run the unmatched case report at least once a month and establishes guidelines for monitoring the report. Not recording the cases in the financial management system resulted in the potential loss of revenue totaling more than \$1,900. The Clerk should ensure staff monitor the system reports monthly to promptly identify cases not recorded in the financial system.

Strengthen Accounts Receivable Procedures

As noted in our previous audit report, the Clerk needs to strengthen procedures for managing the court's accounts receivable. Specifically, we found that the Chief Deputy erred when calculating the due dates for the payment of individual accounts receivable in 13 of 40 cases tested. Errors ranged from 15 days to 19 years. Further, the Chief Deputy did not accurately record due date changes in the automated system. Section 19.2-354 of the Code of Virginia requires that absent a court order or a signed payment agreement, court fines and costs are payable immediately upon sentencing. All payment due dates must correspond to these criteria.

Failing to properly calculate due dates hinders or delays the collection of fines and costs. The Clerk should ensure court staff receive sufficient training to accurately set payment due dates and to document due date changes in the automated system.

The following is an instance of noncompliance with applicable laws and regulations that is required to be reported.

Properly Monitor Civil Cases

As noted in our previous audit report, the Clerk does not properly monitor inactive civil cases. The Code of Virginia establishes guidelines for removing inactive civil cases from the court's docket after one, two, and three years of inactivity. Although the Clerk has made some progress in this area, we noted that the court's docket still lists more than 460 civil cases dating back as far as 1984. The Clerk should immediately identify inactive civil cases, petition the court to remove them from the docket, and refund any bonds.

CLERK'S OFFICE CAROLINE COUNTY

BOWLING GREEN, VIRGINIA 22427
TELEPHONE 804-633-5800

July 20, 2005

Commonwealth of Virginia
Auditor of Public Accounts
Mr. Walter J. Kucharski
P.O. Box 1295
Richmond, VA 23218

Dear Mr. Kucharski:

The current audit report indicates this office has not achieved all goals listed in the corrective action plan written in 2004. Our corrective actions over the past twelve months have resulted in a significant improvement in the area of bookkeeping. The part of the previous plan to correct the area of Case Management has fallen short of expectations. Some confusion continues in the area of accounts receivable and assessment & docketing of fines and costs for court cases.

The following points in regard to Case Management were included in the 2004 corrective action plan:

- * A policy of re-training for employees.
- ** Case Management issues in regard to:
 - (a) Accounts receivables: Defendant to receive notice in Court on court date
 - (b) The DNA fee is now assessed on felony cases.
- *** The Clerk is taking a more active role in monitoring C.M.S. operations.
 - = Cases with no action for a prolonged period of time will now be placed on the Court's docket.

The current audit findings include:

- A. Non-assessment of Court appointed counsel fees under county code # 217
- B. Untimely set-up of accounts receivable in F.M.S.
- C. Untimely docketing of judgments on criminal fines & costs
- D. Over-assessment of costs on intestate qualifications
- E. Non-use of CR 32 Report (Unmatched caseload) in C.M.S.
- F. Wrongful assessment of fees on criminal cases
 - 1. Jail commitment fee (\$ 25.00) (shortage)
 - 2. Courthouse Maintenance fee (overage)

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- 3. D.N.A. fee (shortage)
- 4. Tried in Absence Fee (shortage)
- G. Mis-calculation of due dates on fines & costs
- H. Improperly monitoring of inactive civil cases

CORRECTIVE ACTION PLAN 2005

- I. Corrective Actions will include:
 - A. Program of training and re-training for office
 - 1. Chief Deputy (Mrs. Morton) will be re-trained on criminal matters and C.M.S.
 - a. Supreme Court - Martin Watts
 - b. Hanover Circuit Court, if necessary
 - 2. Second deputy (Mrs. Whitmer) will be trained as assistant in criminal matters
 - a. Supreme Court - Martin Watts
 - b. Hanover Circuit Court, if necessary
 - 3. Third deputy (Mrs. Beasley) will be assigned to criminal unit and receive training
 - a. Chief Deputy & assistant
 - b. Hanover Circuit Court, if necessary
 - 4. Clerk will re-train on C.M.S.
 - a. Supreme Court - Martin Watts
 - b. Review C.M.S. Manual
 - B. Establish Office Divisions
 - 1. Common Law & Criminal Section
 - a. Chief Deputy, Mrs. Morton
 - b. Assistant Deputy, Mrs. Whitmer
 - c. Assistant Deputy, Mrs. Beasley
 - 2. Chancery & Probate Section
 - a. Mrs. Whitmer, section head
 - (1) train others on chancery
 - (2) train on probate
 - b. Mrs. Minarchi
 - (1) train on chancery & probate
 - (2) will assess fees but do no collections
 - c. Mrs. Popowicz
 - (1) train on chancery & probate
 - (2) fee collection
 - d. Clerk will train on probate
 - C. Unit functions
 - 1. Common Law & Criminal Section
 - a. Establish accounts receivable in F.M.S.
 - b. Docket judgment in favor of the Commonwealth or County of Caroline for local fines & costs
 - c. Assess fees, especially
 - (1) Tried in Absence Fee for District Court
 - (2) D.N.A. fee
 - (3) Jail fee
 - d. Calculate due dates

- e. Audit & review by Clerk
 - (1) Use of CR 32 (Unmatched case report)
 - (2) Use of docket on ended criminal cases to insure timely set-up & docketing of ended cases
- 2. Chancery & Probate
 - a. Establish Probate guidelines
 - b. Probate System does not properly assess fees
Link Probate Delivery System to other computers
- D. Joint task force for inactive case removal
 - 1. Create joint task force
 - a. Member from Common Law & Criminal Section
 - b. Member from Chancery & Probate Section
 - 2. Dedicate more time to removal of cases with no activity in over 3 years
 - 3. Copies of order of removal to parties and counsel
 - 4. Require Notice of reinstatement
 - 5. Document by Praecipe or other means any case upon which notice has been given and parties wish to remain on docket

This office immediately took corrective action in regard to assessment of Court appointed counsel fees to the locality on criminal cases for violations of the local code. These cases are now identified and court appointed counsel will be informed to notice the Clerk that request for payment is to be forwarded to the locality. Additionally, a guideline worksheet for qualification on estates of intestate individuals has been written and distributed to the probate staff. The CR 032 report has been requested and will be a regularly scheduled request at least monthly.

In conclusion, as of this date, we have received additional training from Martin Watts. Mr. Watts met with the Clerk, Chief Deputy and the Section Chief for Chancery and provided additional insight into assessment of costs. Additional problems with the computer hardware may have resulted in this office not having received proper guidance in regard to set-up and using the multi-task printer. This problem should be corrected shortly since instructions have been requested to enable us to print the normal office reports as well as the Notice to Pay (DC-225). Office staff has received instruction on requesting Abstract of Judgments and Judgment Release forms from F.M.S. and these will be used in the future to docket and release fines and costs for the Commonwealth and the locality. More diligence is required to insure that upon conviction, all defendants must report to the Clerk's Office to receive a Notice to pay. We have received conflicting instructions in regard to assessment of costs in criminal cases. The General

District Court and Juvenile & Domestic Relations Court assess costs pursuant to Title 16 of the Code. The Circuit Court assesses costs pursuant to Section 17.1-275. While Title 16 allows a Tried in Absence fee and disallows costs on multiple cases bearing the same date of offense, Section 17.1-275 disallows a Tried in Absence fee and allows costs to be assessed upon a per charge basis. In the future, staff in this office has been instructed to collect costs as assessed on the warrant in the lower courts and to assess costs in this Court pursuant to Title 17. The exception to this is the Jail Processing fee assessed in the lower courts will not be collected if the defendant has noted an appeal prior to commitment.

Our local ordinance precludes the collection of the processing fee until the defendant is convicted and physically transported to the jail.

Yours truly,

A handwritten signature in cursive script, reading "Ray S. Campbell, Jr.", written in dark ink.

Ray S. Campbell, Jr., Clerk